

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

MATTHEW J. RUDD,

Plaintiff,

v.

**CIVIL ACTION NO. 3:04CV-39
(BROADWATER)**

**JO ANNE B. BARNHART,
Commissioner, Social Security
Administration,**

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge James E. Seibert, dated June 21, 2005 (**Docket # 4**). The plaintiff did not file objections to the Report. However, in the interests of justice and in accordance with 28 U.S.C. § 636(b)(1), the Court has conducted a *de novo* review.

The Court notes the petitioner in this appeal proceeded *pro se*. Pro Se Claimant - Liberally Construe Complaint. Pro se complaints and petitions are held to a less stringent standard than those drafted by attorneys. Gordon v. Leeke, 574 F.2d 1147, 1151 (4th Cir.), cert. denied, Leeke v. Gordon, 439 U.S. 970 (1978). “A federal district court is charged with liberally construing a complaint or petition filed by a pro se litigant to allow the development of a potentially meritorious case.” Stout v. Robnett, 107 F. Supp. 2d 699, 702 (D.S.C. 2000) (citing Hughes v. Rowe, 449 U.S. 5, 9 (1980)); see also Cruz v. Beto, 405 U.S. 319 (1972).

The Court, having conducted a *de novo* review of the matter before it, and having applied the standard of review necessary when a petitioner is proceeding *pro se*, is of the opinion that the Magistrate Judge’s Report and Recommendation should be and is hereby ORDERED adopted.

The Court, therefore, ORDERS that the defendant's motion for summary judgment (**Docket # 8**) be GRANTED. It is further ORDERED that this action be DISMISSED WITH PREJUDICE based on the reasons set forth in the Magistrate Judge's Report and Recommendation, and STRICKEN from the active docket of this Court.

It is so ORDERED.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this 13th day of September 2005.


W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE